



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,421	04/08/2009	Yehuda Yavets-Chen	P-5767-US	4105
49443 7590 10/04/2011 Pearl Cohen Zedek Latzer, LLP 1500 Broadway 12th Floor New York, NY 10036				
EXAMINER				
TRAN, THIEN S				
ART UNIT		PAPER NUMBER		
3742				
NOTIFICATION DATE		DELIVERY MODE		
10/04/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@pczlaw.com
Arch-USPTO@pczlaw.com

Office Action Summary**Application No.**

10/568,421

Applicant(s)

YAVETS-CHEN ET AL.

Examiner

THIEN S. TRAN

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 19, 20, 23 and 25-31 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 19, 20, 23 and 25-31 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-CB006)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date ____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 19, 20, 23, 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida (US 6,352,020) in view of Young (US 2003/0097938), Ono (US 5,870,948) and Wade (US 6,217,311).

4. Regarding claim 19, Uchida teaches a sushi maker (Col 3, Lines 11-17) comprising: a base plate (Figs 2-4, Item 2, Col 5, Lines 6-10); a roll-up sheet (Figs 2-4, Item 3, Col 5, Lines 6-10) for holding a seaweed layer, the roll-up sheet (Figs 2-4, Item 3) being positionable on the base plate (Figs 2-4, Item 2); a cooked-rice container with a bottom opening (Fig 1, Items 12 & 13, Col 5, Lines 1-5) for dispensing a layer of rice on the seaweed layer when held by the roll-up sheet, and a cutting device (Fig 1, Col 2, Lines 25-31, cutter device not shown) for separating the dispensed layer of rice from

rice contained in the container. Uchida discloses the claimed except for the roll-up sheet is in substantially flat configuration when held by clamps, rollable into a cylindrical configuration when released from the clamps; the area of the opening being substantially equal to the area of the seaweed layer on which the rice is to be dispensed; and the cutting device comprising one or more elongated retaining elements for retaining the rice within the cooking-rice container when no pressure is applied on the rice, yet allowing at least part of the rice to be extruded through the opening when the rice is compressed, one or more elongated cutting elements for separating the dispensed layer of rice from the rice contained in the container are movable across at least a portion of the opening after extruding the layer of rice from the opening.

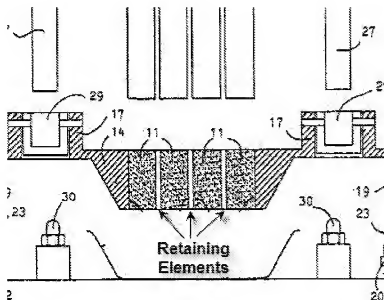
5. In analogous art of sushi mold apparatus, Young discloses the roll-up sheet (Figs 14 & 15, Item 156, Pg 4, 0045) is in substantially flat configuration when held by clamps (Figs 14 & 15, Items 165-167 & 161, 172, 174 & 176, Pg 4, 0045), rollable into a cylindrical configuration when released from the clamps (Figs 9-10, Item 56, Pg 3, 0036) for the purpose of forming a sushi roller apparatus to form traditional sushi pieces (Pg 4, 0045). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Uchida with the roll sheet structure of Young for the purpose of forming a sushi roller apparatus to form traditional sushi pieces.

6. In analogous art of apparatus for making seaweed roll, Ono discloses the area of the opening (Fig 1, Item 54, Col 3, Lines 26-37) being substantially equal to the area of the seaweed layer on which rice (Fig 5, Items A & B, Col 3, Lines 40-50) is to be dispensed for the purpose of forming a seaweed roll making apparatus which can make

seaweed rolls efficiently (Col 1, Lines 31-34). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Uchida and Young with the opening size of Ono for the purpose of forming a seaweed roll making apparatus which can make seaweed rolls efficiently.

7. In analogous art of apparatus for and method for portioning rice, Wade discloses the cutting device comprising one or more elongated retaining elements (Fig 2, Retaining Elements, see drawing below) for retaining the rice (Fig 2, Item 11, Col 3, Lines 23-25) within the cooking-rice container (Fig 2, Item 14, Col 2, Lines 45-50) when no pressure is applied on the rice, yet allowing at least part of the rice (Fig 6, Item 11) to be extruded through the opening (Fig 2, Item 14) when the rice is compressed, one or more elongated cutting elements (Fig 2, Items 26, Col 3, Lines 5-13) for separating the dispensed layer of rice from the rice contained in the container are movable across at least a portion of the opening after extruding the layer of rice from the opening for the purpose of portioning rice for making sushi (Col 1, Lines 4-6). It would have been obvious to one having ordinary skill in the art at the time of the invention to substitute the cutting device of Uchida with the cutting device structure of Wade for the purpose of portioning rice for making sushi.

8. The examiner interprets that the cutting elements (Fig 2, Item 26) of Wade move across the opening of the container (Fig 2, Item 14) in an up and down motion as disclosed in Figure 6.



9. Regarding claim 20, Uchida teaches comprising a compression device (Fig 1, Items 132 & 133, Col 1, Lines 33-37) for extruding rice (Fig 1, Item R, Col 1, Lines 33-37) from the container (Fig 1, Items 12 & 13, Col 5, Lines 1-5) through the opening.

10. Regarding claim 23, Uchida, Young and Ono discloses the claimed invention except for said one or more elongated retaining elements are substantially evenly spaced, and said one or more elongated cutting elements are substantially evenly spaced for moving a predetermined distance across the layer of rice from a position substantially aligned with the retaining elements.

11. In analogous art of apparatus for and method for portioning rice, Wade discloses said one or more elongated retaining elements (Fig 2, Retaining Elements, see drawing above) are substantially evenly spaced, and said one or more elongated cutting elements (Fig 2, Items 26) are substantially evenly spaced for moving a predetermined distance across the layer of rice (Fig 1, Items 10 & 24) from a position substantially aligned with the retaining elements for the purpose of portioning rice for making sushi

(Col 1, Lines 4-6). It would have been obvious to one having ordinary skill in the art at the time of the invention to substitute the cutting device of Uchida with the cutting device structure of Wade for the purpose of portioning rice for making sushi.

12. Regarding claim 25, Uchida, Young, Ono and Wade discloses the claimed invention except for the predetermined distance is substantially equal to the space between two adjacent cutting elements of said one or more elongated cutting elements. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the predetermined distance substantially equal to the space between two adjacent cutting elements of said one or more elongated cutting elements, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. One would have been motivated to have the predetermined distance substantially equal to the space between two adjacent cutting elements of said one or more elongated cutting elements for the purpose of adjusting the amount of rice being dispensed from the container (In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235).

13. Regarding claim 27, Uchida discloses the claimed invention except for comprising a mechanism attached to the base plate and engaging the clamps, the mechanism operable to controllably roll the roll- up sheet from its substantially flat configuration to its cylindrical configuration. In analogous art of sushi mold apparatus, Young discloses comprising a mechanism (Figs 14 & 15, Items 158 & 160, Pg 4, 0045) attached to the base plate (Figs 14 & 15, Item 164, Pg 4, 0045) and engaging the

clamps (Figs 14 & 15, Items 165-167 & 158, 161, 172, 174 & 176, Pg 4, 0045), the mechanism operable to controllably roll the roll-up sheet (Figs 14 & 15, Item 156, Pg 4, 0045) from its substantially flat configuration to its cylindrical configuration (Figs 8-11, Pg 4, 0037) for the purpose of forming traditional sushi pieces (Pg 4, 0045). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Uchida with the roll sheet structure of Young for the purpose of forming traditional sushi pieces.

14. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida (US 6,352,020), Young (US 2003/0097938), Ono (US 5,870,948) and Wade (US 6,217,311) as applied to claim 19, in view of Setecka (US 3,465,894).

15. Regarding claim 26, Uchida, Young, Ono and Wade discloses the claimed invention except for comprising rails along which the container may be moved. In analogous art of portable food service device for tables and the like, Setecka discloses comprising rails (Figs 1 & 4, Items 10, 11, 12 & 13, Col 2, Lines 15-24) along which the container (Figs 1 & 4, Items 20, 35 & 38, Col 2, Lines 40-42 & Col 3, Lines 9-19) may be moved for the purpose of selectively moving any of the carriages and trays to any desired positions between the opposite ends of the table to permit quick serving of the foods supported thereon (Col 1, Lines 21-28). It would have been obvious to one having ordinary skill in the art at the time of the invention to substitute the rack and pinion system of Uchida with the rails of Setecka for the purpose of selectively moving any of the carriages and trays to any desired positions between the opposite ends of the table to permit quick serving of the foods supported thereon.

16. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida (US 6,352,020), Young (US 2003/0097938), Ono (US 5,870,948) and Wade (US 6,217,311) as applied to claims 19 & 27, in view of Anderson (US 5,224,692).

17. Regarding claim 28, Uchida teaches a mechanism (Figs 5a-c & 6a-c, Items 64 & 651, Col 6, Lines 60-65) for folding the rolling sheet (Figs 5a-c & 6a-c, Items 31-34, Col 6, Lines 50-55). Uchida, Young, Ono and Wade discloses the claimed invention except for the mechanism is in the form of a left-hand right-hand rotatable screw, the screw engaging nuts attached to the clamps. In analogous art of versatile wide opening vise, Anderson discloses the mechanism is in the form of a left-hand right-hand screw (Figs 1 & 2, Items 50 & 51, Col 2, Lines 59-64), the screw engaging nuts (Figs 1 & 2, Items 20 & 21, Col 3, Lines 1-6) attached to said clamps (Figs 1 & 2, Items 24 & 25, Col 3, Lines 9-13) for the benefit of providing movement to a pair of jaws along a base to desired clamping positions (Col 2, Lines 8-13). It would have been obvious to one having ordinary skill in the art to combine the teachings of Uchida, Young, Ono and Wade with the screw mechanism of Anderson for the benefit of providing movement to a pair of jaws along a base to desired clamping positions.

18. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida (US 6,352,020), Young (US 2003/0097938), Ono (US 5,870,948) and Wade (US 6,217,311) as applied to claim 19, in view of Locker (US 2,240,221).

19. Regarding claims 29 and 30, Uchida, Young, Ono and Wade discloses the claimed invention except for said one or more elongated cutting elements comprises one or more wires, the one or more wires are made of stainless steel. In analogous art

of egg and like slicing appliance, Locker discloses said one or more elongated cutting elements (Figs 1-3, slicer, Col 2, Lines 10-15) comprises one or more wires (Figs 1 & 2, Item g, Col 2, Lines 25-30), the one or more wires are made of stainless steel (Figs 1 & 2, Item g, Col 2, Lines 25-30) for the purpose of forming a food slicer (Col 2, Lines 10-15). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Uchida, Young, Ono and Wade with the wire of Locker for the purpose of forming a food slicer.

20. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida (US 6,352,020), Young (US 2003/0097938), Ono (US 5,870,948) and Wade (US 6,217,311) as applied to claim 19, in view of Southworth (US 4,425,706).

21. Regarding claim 31, Uchida, Young, Ono and Wade discloses the claimed invention except for the container is adapted to be moved with respect to the cutting device to slice off the rice layer. In analogous art of cutting tool, Southworth discloses the container (Figs 3 & 5, Item 30, Col 2, Lines 66-68) is adapted to be moved with respect to the cutting device (Figs 3 & 5, Items 10, 14 & 18, Col 2, Lines 37-47) to slice off the food layer (Figs 3 & 5, Item 31, Col 2, Lines 66-68) for the purpose of cutting the food item in any desired horizontal or vertical sections (Col 2, Lines 23-25). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Uchida, Young, Ono and Wade with the cutting device and container of Southworth for the purpose of cutting the food item in any desired horizontal or vertical sections.

Response to Amendment

- 22. Claims 1-18, 21, 22 and 24 are cancelled.
- 23. Claims 19, 23, 25, 29 and 30 have been amended.
- 24. Claims 19, 20, 23 and 25-31 are pending.

Response to Arguments

- 25. Applicant's arguments filed 9/19/2011 have been fully considered but they are not persuasive.
- 26. Regarding the Remarks on pages 5-6 about claim 19 "and Uchida, Young and Ikeda not disclosing the amended limitations of claim 19", the examiner agrees. However, Uchida, Young, Ono and Wade discloses the limitations of claim 19.
- 27. Regarding the Remarks on page 7 about claim 21, the remarks are moot because claim 21 has been cancelled.
- 28. Regarding the Remarks on page 8 about claim 19, "Wade not disclosing the amended claim limitations", the examiner respectfully disagrees. Wade discloses the cutting device comprising one or more elongated retaining elements (Fig 2, Retaining Elements, see drawing above) for retaining the rice (Fig 2, Item 11, Col 3, Lines 23-25) within the cooking-rice container (Fig 2, Item 14, Col 2, Lines 45-50) when no pressure is applied on the rice, yet allowing at least part of the rice (Fig 6, Item 11) to be extruded through the opening (Fig 2, Item 14) when the rice is compressed, one or more elongated cutting elements (Fig 2, Items 26, Col 3, Lines 5-13) for separating the dispensed layer of rice from the rice contained in the container are movable across at

least a portion of the opening after extruding the layer of rice from the opening for the purpose of portioning rice for making sushi (Col 1, Lines 4-6). It would have been obvious to one having ordinary skill in the art at the time of the invention to substitute the cutting device of Uchida with the cutting device structure of Wade for the purpose of portioning rice for making sushi. The examiner interprets that the cutting elements (Fig 2, Item 26) of Wade move across the opening of the container (Fig 2, Item 14) in an up and down motion as disclosed in Figure 6.

29. Regarding the Remarks on pages 9-11 about claims 22-31"and the cited prior art not disclosing the amended limitations of claim 19", the examiner agrees. However, Uchida, Young, Ono and Wade discloses the limitations of claim 19.

Conclusion

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THIEN S. TRAN whose telephone number is (571)270-7745. The examiner can normally be reached on Mon-Friday, 8-5PM EST.

31. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

32. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/THIEN S TRAN/
Examiner, Art Unit 3742
9/27/2011

/Henry Yuen/
Supervisory Patent Examiner, Art
Unit 3742

